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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,089	08/14/2001	Tam Wee Sin	10961-0003	8906
20583	7590	09/28/2005	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			PHAN, TRI H	
			ART UNIT	PAPER NUMBER
			2661	
DATE MAILED: 09/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,089

Applicant(s)

SIN ET AL.

Examiner

Tri H. Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 13-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/06/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment/Arguments

1. This Office Action is in response to the Election filed on July 1st, 2005. Claims 1-34 are pending in the application. Claims 1-12 were elected to be prosecuted on the merits. Thus, non-elected claims 13-34 are withdrawn from consideration. In a response to this Office Action Applicant should cancel the non-elected claims to expedite the prosecution, should the response place the instant application in a favorable condition for allowance.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Singapore on 09/13/2000. It is noted, however, that applicant has not filed a certified copy of the SG 200005204-3 application as required by 35 U.S.C. 119(b).

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the overlapping of the audio frame in the UDP packet must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

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even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because:

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves

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modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art. Therefore, the term “(as defined herein)” should be deleted.

Extensive mechanical and design details of apparatus should not be given. Therefore, the term “Figure 1” at the end of the Abstract should be deleted.

Also, it should be noted the title in the Abstract (“Internet Telephony”) is different from the title of the application (“Quality of transmission across packet-based networks”).

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The term "*as defined herein*" in claim 1 is a relative term which renders the claim indefinite. The term "*as defined herein*" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would

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not be reasonably apprised of the scope of the invention. Therefore, the “audio” transmission in the claim has been rendered indefinite by the use of the term “*as defined herein*”.

8. Claim 1 is narrative in form and does not contain positively recited steps of a specific process. Note that method claims should set forth a series of steps in the active term in an instruction like manner thereby reciting an actual method. Dependent claims should further limit base claims by reciting additional steps in a likewise fashion. See *Ex parte Erlich*, 3 USPQ2d 1011 at 1017[6].

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by **Qarni et al.** (U.S.6,438,105; hereinafter refer as ‘**Qarni**’).

- In regard to claim 1, **Qarni** discloses in Figs. 1, 6-7, and 11A-C and in the respective portions of the specification about system and method for audio transmission over a network (For example see Fig. 1; col. 4, lines 17-20) where audio frames are sent in UDP packets (For

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example see Figs. 1, 10; col. 4, lines 28-31), wherein the audio frames are overlapped by at least one for each UDP packet (For example see Figs. 6-7, 11A-C; col. 8, lines 60-67).

- Regarding claims 2-3, in addition to features in base claim 1 (see rationales pertaining the rejection of base claim 1 discussed above), **Qarni** further discloses about one or two overlapped audio frame for each UDP packet (For example see Figs. 6-7; col. 8, line 60 through col. 9, line 7).

- In regard to claims 4-5, in addition to features in base claim 1 (see rationales pertaining the rejection of base claim 1 discussed above), **Qarni** further discloses wherein the audio frames are overlapped in response to the detection of high packet loss and wherein the extent of overlap is selected based on the extent of the packet loss (For example see col. 2, lines 56-65; col. 3, lines 18-22; col. 8, lines 53-59).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Qarni et al.** (U.S.6,438,105).

- In regard to claims 6-7, **Qarni** discloses all the subject matter of the claimed invention as discussed in part 10 of this office action above about system and method for audio transmission over a network (For example see Fig. 1; col. 4, lines 17-20), wherein the audio frames are overlapped by at least one for each UDP packet ('redundant packet window'; wherein the transmission module provides the dynamic redundancy window for transmission between the ingress/egress gateway as disclosed in Figs. 1 and 6-7; col. 11, lines 45-65; where the 'UDPX/UDP/IP', e.g. software program or stack, for implement the UDPX protocol at the gateway or different places as the system engineering choices or "being located close to the terminating gateway"; and encapsulates data for transmission between the ingress/egress gateway, e.g. "convert the overlapped audio frames to non-overlapped audio format by the audio converter" as disclosed in Fig. 2; col. 5, lines 28-34).

- Regarding claims 8-12, **Qarni** further discloses wherein the transmission from the originating gateway is in the non-overlapped audio format (For example see link 16 in Fig. 1) and is to the originating audio converter to convert the transmission to overlapped format (For example see link 20 in Fig. 1); the originating audio converter being close to the originating gateway (For example see Fig. 1; wherein, it is obvious that the 'UDPX/UDP/IP', e.g. software program or stack, is implement the UDPX protocol at the gateway or different places as the system engineering choices or "being located close to the terminating gateway" or "in the same network").

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Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schuster et al. (U.S.6,175,871 and U.S.6,226,769) are all cited to show devices and methods for improving the real time communication over packet network in the telecommunication architectures, which are considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272-3126.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300

Hand-delivered responses should be brought to Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office, whose telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tri H. Phan
September 26, 2005



BRIAN NGUYEN
PRIMARY EXAMINER